

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petition of AT&T for Forbearance)	WC Docket No. 07-139
Under 47 U.S.C. § 160(c) from Enforcement)	
of Certain of the Commission's ARMIS)	
Reporting Requirements)	
)	
)	
)	
)	

**REPLY COMMENTS OF THE
NEW JERSEY DIVISION OF RATE COUNSEL**

**RONALD K. CHEN
PUBLIC ADVOCATE**

**Kimberly K. Holmes, Esq.
Acting Director**

Division of Rate Counsel
31 Clinton Street, 11th Floor
P.O. Box 46005
Newark, NJ 07101
(973) 648-2690 - Phone
(973) 624-1047 – Fax
www.rpa.state.nj.us
njratepayer@rpa.state.nj.us

On the Comments:
Christopher J. White, Esq.
Deputy Public Advocate

September 19, 2007

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petition of AT&T for Forbearance)	WC Docket No. 07-139
Under 47 U.S.C. § 160(c) from Enforcement)	
of Certain of the Commission's ARMIS)	
Reporting Requirements)	
)	
)	
)	
)	

**REPLY COMMENTS OF THE
NEW JERSEY DIVISION OF RATE COUNSEL**

I. INTRODUCTION

The New Jersey Division of Rate Counsel ("Rate Counsel") hereby responds to the initial comments submitted in response to the Federal Communications Commission's ("FCC" or "Commission") Public Notice in the above referenced proceeding.¹ Based on its review of initial comments, Rate Counsel continues to oppose the petition filed June 8, 2007, by AT&T, Inc. ("AT&T") requesting forbearance under 47 U.S.C. § 160(c) from enforcement of certain of the Commission's Automated Reporting Management Information System ("ARMIS") reporting requirements.² Comments and analysis submitted in this proceeding amply demonstrate that, if granted, AT&T's request for forbearance from reporting requirements would unnecessarily and unduly constrain the

¹ / Federal Communications Commission Public Notice, "Pleading Cycle Established for AT&T Inc. Petition on behalf of its Incumbent LEC Affiliates Seeking Forbearance from Enforcement of Certain ARMIS Reporting Requirements," WC Docket No. 07-139, DA 07-3332, July 20, 2007. Comments were filed August 20, 2007.

² / Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain of the Commission's ARMIS Reporting Requirements, filed June 8, 2007 ("AT&T Petition").

ability of Rate Counsel, consumer advocates, consumers, and state regulators to compare and to assess the quality of AT&T's service with the quality of other carriers' service such as Verizon's, and also would limit access to important public information about operating statistics and network infrastructure. As Rate Counsel and others demonstrate comprehensively, AT&T has failed to demonstrate that its request meets the three-prong test for forbearance, and the Commission should reject AT&T's petition. At a minimum, the Commission should consider the issues raised by the petition in a broader rulemaking proceeding.

II. ANALYSIS OF COMMENTS

The Commission should assess the implications of changes to its ARMIS reporting requirements in a broader rulemaking proceeding.

As Rate Counsel stated in its initial comments, the Commission should consider ARMIS reporting requirements in the context of a rulemaking informed by a federal-state joint board. "As has been the Commission's long tradition, states and the Commission should work collaboratively on matters of importance to interstate and intrastate regulation and oversight of telecommunications services and infrastructure."³ It is inappropriate to discontinue a system of reporting for incumbent local exchange carriers ("ILEC") based on a petition from one ILEC. Rate Counsel concurs with the Communications Workers of America ("CWA"), which states that "[t]here is no justifiable rationale, nor does AT&T provide any, for selective exemption from ARMIS reporting requirements. Therefore, the Commission should deny the AT&T Petition on this basis alone."⁴ Certainly, the Commission should consider the impact of authorizing

³ / Rate Counsel, at 5.

⁴ / CWA, at 1.

AT&T's petition as if it were granting forbearance to all reporting ILECs. Rate Counsel concurs with The National Association of State Utility Advocates' ("NASUCA") observation: "Although the Petition is explicitly filed on behalf of AT&T's ILEC affiliates, without a doubt other companies subject to ARMIS reporting would file 'me too' petitions if AT&T's is granted."⁵

AT&T has failed to demonstrate that the burden of filing ARMIS reports outweighs the benefit to regulators of having access to standardized, public, nationwide data about BOC operations.

No credible effort has been made to quantify the "burden" that the "onerous" reporting requirements place on AT&T, specifically, or reporting carriers, in general. AT&T contends that the ARMIS reports are "burdensome and anachronistic."⁶ The United States Telecom Association ("USTelecom") suggests that the Commission's grant of forbearance from ARMIS reporting requirements would "free up the precious resources of the select few companies filing the ARMIS Reports so they may compete even more aggressively in the marketplace."⁷ Embarq suggests that the requirements are "burdensome, duplicative, and misleading."⁸ Yet, AT&T, USTelecom, and Embarq provide no evidence to suggest that the ILECs are unable to compete effectively because of the ARMIS reporting requirements; they fail to support claims of the ill effects of reporting requirements; and they do not attempt to quantify the purported burden.

⁵ / NASUCA, at 2, footnote 4. See, also, Rate Counsel, at 3 stating: "The petition, if granted, would set an ill-advised precedent, paving the way for a "me-too" petition by Verizon, potentially jeopardizing consumers' and regulators' access to public information."

⁶ / AT&T Petition, at 2.

⁷ / USTelecom, at 10.

⁸ / Embarq, at 3.

Furthermore, as noted in Rate Counsel’s initial comments, AT&T has not demonstrated that “the purported burden of submitting ARMIS reports to the FCC outweighs the significant benefit to regulators and consumers of having standardized public information.”⁹ CWA similarly suggests that AT&T has failed to demonstrate adequately that the requirements are burdensome and contends that it is unaware of any studies demonstrating a burden.¹⁰ The substantial value of having nationwide publicly available service quality data for basic telephone service, particularly at a time when ILECs’ are ignoring POTS customers and instead are pursuing the higher-revenue “triple play” customers, should not be discounted in favor of unsubstantiated claims by AT&T, and the ILECs more generally.

Contrary to claims from the industry, access to ARMIS data remains an invaluable tool for both consumers and state regulators.

As noted by CWA, “free markets function best when consumers have access to comprehensive information about the goods and services they are purchasing, including the quality of service provided.”¹¹ Rate Counsel concurs with CWA’s analysis that “markets can only function efficiently when comprehensive information is readily available to consumers”¹² and “[t]here are few, if any, non-regulatory incentives for carriers – whether in competitive or non-competitive markets – to supply service quality information to the public.”¹³

⁹ / Rate Counsel, at 9.

¹⁰ / CWA, at 12.

¹¹ / *Id.*, at 2. *See, also*, Rate Counsel, at 3, 9.

¹² / CWA, at 14.

¹³ / *Id.*, at 15.

Embarq makes the unsubstantiated assertion that the ARMIS Reports from which AT&T seeks forbearance are “largely unused today and for many years”¹⁴ and are duplicative of state efforts.¹⁵ To the contrary, state commissions and consumer advocates have demonstrated why ARMIS Reports are still essential for policymakers.¹⁶ Rate Counsel concurs with the Texas Public Utility Commission’s (“Texas PUC”) position that ARMIS reports “provide state commissions with consistent and valuable information essential to monitor, evaluate, enforce and revise policies for competition, service quality, infrastructure, telephone company operations and universal service support.”¹⁷ The Texas PUC indicates, for example, that it uses ARMIS Report 43-08 data as inputs in the Texas Universal Service Fund cost models.¹⁸

The Michigan Public Service Commission (“Michigan PSC”) observes that states have “little authority to require providers to submit detailed infrastructure information”

¹⁴ / Embarq, at 1.

¹⁵ / *Id.*, at 3.

¹⁶ / Texas PUC, at 5; Michigan PSC, at 2; NASUCA, at 4, 7; Rate Counsel, at 27-34. In addition, CWA recounts the opposition of state commissions to the FCC’s 2001 Notice of Proposed Rulemaking regarding the proposed discontinuation of ARMIS service quality reporting in detail, and the Commission’s ultimate decision not to pursue the proposal. CWA, at 7. Indeed, the Commission’s August 2007 Section 272 Sunset Order adopting a new framework for BOC in-region, long distance services was based, in part, on an analysis that the safeguards and legal obligations that remain for the BOCs would address any competitive concerns about the changes. The Commission relied upon the continuing obligations of the BOCs to submit ARMIS data. *In the Matter of Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements; 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission’s Rules; Petition of AT&T Inc. for Forbearance Under 47 U.S.C. §160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services*, WC Docket No. 02-112; CC Docket No. 00-175; WC Docket No. 06-120, Report and Order and Memorandum Opinion and Order, FCC 07-159 (rel. August 31, 2007) (“Section 272 Order”), para. 94. Although the Order addresses the cost allocation reports (FCC Reports 43-01, 43-02, and 43-03 (see, e.g., note 300)), the Order implicitly acknowledges the value of ARMIS reporting.

¹⁷ / Texas PUC, at 5.

¹⁸ / *Id.*

due to “a variety of deregulations and federal preemptions.”¹⁹ The result, according to the Michigan PSC, is that ARMIS reports are a “significant tool for state commissions.”²⁰

The Commission should not discount the value of ARMIS reports in the ability of states to benchmark.²¹ The Texas PUC uses the ARMIS reports to compare service quality in Texas to that provided by carriers in other states. The Texas PUC states: “These objective comparisons are useful in revising the statewide telecommunications standards and policies contained in the TPUC’s Substantive Rule 26.54. Without periodic data reporting, the states will not be able to monitor and enforce their quality of service standards.”²² AT&T’s petition, if granted, would severely undermine the ability of state and federal regulators to examine and to compare service quality among jurisdictions.

As noted by NASUCA, the California Public Utilities Commission (“California PUC”) recently stopped requiring monitoring reports and instead made a decision to rely on ARMIS data to track the service quality of telecommunications providers.²³ Although

¹⁹ / Michigan PSC, at 2.

²⁰ / *Id.*

²¹ / *See*, among others, CWA, at 11. CWA notes that it used ARMIS service quality data in testimony filed in the New England states’ reviews of the sale of Verizon’s local companies to FairPoint Communications. *Id.*, at 11-12. As stated in Rate Counsel’s initial comments (at 9) and in CWA’s comments (at 12), some state commissions deem service quality data proprietary and thus interested parties are at a disadvantage in proceedings without access to a publically available source for service quality data. The Office of Consumer Advocate in New Hampshire, for example, relied in part on ARMIS service quality data to demonstrate in public testimony that Verizon’s service quality has declined over the past several years. Verizon New England Inc., Bell Atlantic Communications Inc., NYNEX Long Distance Company, Verizon Select Services Inc. and FairPoint Communications, Inc. Joint Petition for Authority to Transfer Assets and Franchise to FairPoint Communications, Inc., Prefiled Direct Testimony of Susan M. Baldwin on behalf of New Hampshire Office of Consumer Advocate, New Hampshire Public Utilities Commission Docket No. DT 07-011, July 31, 2007, at Section VI.

²² / Texas PUC, at 3.

²³ / NASUCA, at 3, citing California Public Utilities Commission, Order Instituting Rulemaking on the Commission’s Own Motion to Assess and Revise the Regulation of Telecommunications Utilities, R. 05-04-005, D. 06-08-030, August 24, 2006.

the California PUC has not yet filed comments in this proceeding, the California PUC voted to oppose AT&T's Petition at its August meeting and to submit late-filed comments.²⁴ A California PUC Staff memo summarizes proposed California PUC comments to be filed with the FCC and states that the Commission has relied upon ARMIS reports in many proceedings to make policy decisions and as a tool to monitor investment in network infrastructure and monitor "for signs of potential market failure."²⁵

Among other things, the California PUC Staff memo makes the following arguments:

The ARMIS reports are especially important now. In order to reduce carriers' regulatory burden and to streamline regulation, the Commission has decided to largely rely on the FCC ARMIS reports instead of on California-specific monitoring reports. Just a year ago, the Commission curtailed regulation of the retail telecommunications service offerings of the four major California ILECs, including AT&T. The Commission expressed an intent to rely on these ARMIS reports as part of the Commission's monitoring program to ensure that the competitive market is functioning well and customers will receive good quality at just and reasonably-priced services.²⁶

...

This Commission currently has two pending proceedings – the service quality rulemaking and URF phase 2 - to review whether certain ARMIS reports should be filed with the Commission. Thus, it would be premature

²⁴ / A California PUC meeting summary for August 23, 2007 is available at <http://www.cwclaw.com/publications/alertDetail.aspx?id=239>. The Commission voted to oppose AT&T's petition and a summary of the CPUC's decision includes the following language: "The CPUC will file late-filed comments on this issue, since the deadline for opening comments has already passed. The CPUC will emphasize that the ARMIS reports remain relevant in the URF era, and that the CPUC has relied upon the information in these reports to make significant policy decisions. Further, the CPUC will cite a variety of statements from its own URF and service quality dockets that suggest a reliance on ARMIS reports in lieu of California-specific monitoring reports. A recent draft of the Commission's memorandum describing its proposed comments is available at the following link: http://www.cpuc.ca.gov/word_pdf/REPORT/71553.doc. This development could have significant impacts on the dialogue in URF, Phase II, and in the Commission's service quality docket."

²⁵ / Memorandum from Lee-Whei Tan – Public Utilities Regulatory Analyst V, Communications Division; Charles Christiansen – Supervisor, Communications Division; and Cindy Yun – Public Utilities Counsel III to the California Public Utilities Commission, August 21, 2007 ("California PUC Staff Memo"), available at http://www.cpuc.ca.gov/word_pdf/REPORT/71553.doc, at 1-2.

²⁶ / *Id.*, at 2, citing D.06-08-030, FOF 73; *See also* R.02-012-004, March 30, 2007 Assigned Commissioner's Ruling and Scoping Memo.

from this Commission's perspective for the FCC to eliminate the ARMIS reports now.

Additionally, the Commission eliminated most of the California-specific monitoring reports on the basis that it would rely on the FCC ARMIS reports instead in the URF proceeding last year. This new policy includes deferring to the FCC's standard accounting practices, affiliate transaction rules and reporting requirements including the ARMIS data. The CPUC made its decision largely at the urging of the carriers that they should not be required to file two separate sets of reports.

For the foregoing reasons, Staff recommends that the Commission file comment with the FCC opposing AT&T's request for forbearance from requiring its ILEC affiliates to submit ARMIS Reports 43-05, 43-06, 43-07 and 43-08.²⁷

AT&T's depiction of a "robustly competitive marketplace" is unsupported.

The ILECs' claim that competition is rampant is utterly false.²⁸ NASUCA responds to AT&T's claim that competition has increased since the reporting requirements were first enacted: "that may be true, but only in relative terms, given the minimal competition the ILECs that now make up AT&T faced in 1990. The ILECs remain dominant in their local service operations."²⁹ The Michigan PSC similarly expresses concerns regarding AT&T's assertion that the level of competition yields high quality service. The Michigan PSC concludes that "for some customers in Michigan, wireline service is the only real option for telecommunications service;"³⁰ incumbent providers still serve 81.7% of the wireline market;³¹ and wireline competition has actually decreased in Michigan since 2004.³²

²⁷ / *Id.*, at 4.

²⁸ / AT&T Petition, at 2; USTelecom, at 3; Embarq, at 2.

²⁹ / NASUCA, at 2.

³⁰ / Michigan PSC, at 2.

³¹ / *Id.*, at 3.

³² / *Id.*

Rate Counsel concurs with NASUCA's position that the ARMIS reports "remain vital in an environment when the AT&T ILECs remain dominant in their local markets, especially for residential services."³³ As is stated above, Rate Counsel continues to believe that consumer access to information is essential for markets to function properly and that even if the market was competitive (which it is not), some form of reporting may remain necessary. However, as amply demonstrated in Rate Counsel's initial comments, the ILECs continue to dominate the local market³⁴ and intermodal alternatives, much touted by the ILECs, do not constrain ILEC market power.³⁵

Rate Counsel stated in initial comments:

The Commission should unequivocally reject AT&T's rhetoric regarding purported "robust" competition. Furthermore, if such competition existed, one would expect basic local service quality to increase or rates to decline or both. AT&T provides no empirical evidence of either, and there is ample information instead demonstrating that service quality for basic local service has been declining.³⁶

Rate Counsel provided evidence to the Commission that contrary to what one would expect in a competitive market, ILEC service quality has in fact been declining.³⁷ CWA also provides evidence highlighting the apparent increase in repair intervals among the largest carriers and noting that state commissions "continue to cite carriers for serious deterioration of service."³⁸ CWA further suggests that "the Commission's service quality reports continue to provide the Commission, state regulators, carriers, and consumer and public interest organizations (including CWA) with a uniform, cost-efficient framework

³³ / NASUCA, at 2.

³⁴ / Rate Counsel, at 10-13.

³⁵ / *Id.*, at 13-18.

³⁶ / *Id.*, at 18.

³⁷ / *Id.*, at 18-19, 28-33. *See, also*, NASUCA, at 4-5.

³⁸ / CWA, at 2.

for data reporting that allows comparison over time and between companies and states.”³⁹ As discussed in more detail below, neither the prospect for competition nor price-cap regulation has diminished the importance of consumer and regulator access to the information contained in the ARMIS service quality reports or been a sufficient incentive for the maintenance of adequate service quality by the ILECS.

Price cap regulation does not obviate the need for reporting and oversight.

In supporting AT&T’s petition, USTelecom asserts that the shift from rate-of-return to price cap regulation “rendered moot the underlying purpose behind the ARMIS Reports”⁴⁰ and that the service quality reports were implemented “out of an abundance of caution to address a purely ‘theoretical concern’ that ILECS might reduce service quality in order to increase short-term profits when price caps were initially adopted.”⁴¹ Indeed, the incentive to reduce costs that is inherent in price cap and, more generally, incentive regulation plans raises risks for consumers. Rate Counsel cited statements by Verizon’s Chairman and CEO indicating just that: an intention to cut costs in the provision of local services and divert resources to deploy fiber.⁴² As noted by Laffont and Tirole regarding price cap regulation:

³⁹ / *Id.*

⁴⁰ / USTelecom, at 2.

⁴¹ / *Id.*, at 5; See, also, Qwest, at 2; AT&T Petition, at 11.

⁴² / Rate Counsel, at 21.

High incentives to reduce cost create a concern for quality. Because the firm bears a higher fraction of its expenditures, it is more prone to skimp on services, and so the regulatory reform should be accompanied by increased attention to quality issues.⁴³

As amply demonstrated in Rate Counsel's initial comments, state regulators continue to find that the incentive exists for ILECs to cut costs by degrading service quality despite the adoption of price cap and incentive regulation plans.⁴⁴

USTelecom may be correct that in an ideal world the ILECs would lose large numbers of customers if they experienced poor service quality, but the reality is that "intense competition" does not yet exist and that the ILECs remain dominant, particularly in the market for residential local exchange service.⁴⁵ In response to AT&T's claim that the Commission's concerns have not been borne out regarding carriers' incentives to degrade service under price cap regulation, NASUCA states: "It must certainly be convenient to be so blind to one's own history of service quality problems."⁴⁶ As noted

⁴³ / Jean Jacques Laffont and Jean Tirole, *Competition in Telecommunications*, Cambridge, MA: MIT Press, 2000, at 5. See, also, *Id.*, at 54-55. Laffont and Tirole also make the following observation which is particularly applicable to basic local service in a market still dominated by the ILECs: "Price-cap regulation is about constraining margins. With low margins, the regulated firm has mild incentives to provide quality. It bears the full cost of the provision of quality and reaps a small fraction of its benefits to the extent that the demand expansion is multiplied by a small margin. It is for this reason the price cap regulation is often accompanied by the introduction of measurements of new indicators of quality." *Id.*, at 88.

⁴⁴ / Rate Counsel, at 19-21.

⁴⁵ / USTelecom, at 5. The lack of competition is particularly evident in the market for "no-frills" basic local exchange service. Where carriers compete for residential customers is in the high-value bundled services market (*i.e.* phone, internet, and video packages). And, the competition that exists is, for the most part, in the context of a cable-telco duopoly. As noted by CWA, to the extent that competition does exist "some providers have responded to growing competition in local telecommunications markets by directing capital and human resources precisely to those markets where competition is most intense – the market for high-end business and residential customers. At the same time, these same providers are neglecting customers that generate less revenue and where there is little if any competitive choice. In these latter markets and for these customers, market forces alone do not provide sufficient discipline over price and service." CWA, at 8-9. See, also, Rate Counsel, at 9 and Appendix 1.

⁴⁶ / NASUCA, at 4.

by NASUCA, many states and consumers have experienced continuing service quality issues while under price cap regulation.⁴⁷ CWA highlights the Commission's own reports that show average length of repair intervals at their highest level in 6 years and investigations by state commissions regarding the failure of ILECS to meet service quality standards.⁴⁸ The Commission should heed NASUCA's warnings that improvements in aggregate ARMIS indices may not indicate that service quality problems are obsolete or that reporting is not required: "A consumer is not served by an average company; it is the performance the specific ILEC serving the customer that is particularly important."⁴⁹ CWA aptly concludes: "The economic theory of competition as well as the reality of deteriorating service underscores the continuing importance of such information provided to the Commission and, thus, the public."⁵⁰

Alternatives to ARMIS reports are inadequate.

Numerous commenters support Rate Counsel's position that Form 477, though useful, is not a substitute for the ARMIS reports.⁵¹ As noted by many commenters, the Form 477 data is often filed as confidential.⁵² Additionally, other weaknesses exist. For example, NASUCA states that the Form 477 data does not include important information about "the actual deployment of facilities, that can be used by state commission to determine, for example if service to some regions of a state are provided over facilities that are incapable of providing newer advanced services and monitor the situation over

⁴⁷ / *Id.*, at 5, citing problems in Ameritech territory in the late 90's and the Verizon local companies currently.

⁴⁸ / CWA, at 9.

⁴⁹ / NASUCA, at 5.

⁵⁰ / CWA, at 14.

⁵¹ / *See* Rate Counsel, at 24-27.

⁵² / *See, e.g.*, NASUCA, at 7; Rate Counsel, at 24-26; Michigan PSC, at 3.

time.”⁵³ The Texas PUC, confirming NASUCA’s analysis, states that the Form 477 report does not provide the infrastructure information necessary for state commissions to formulate broadband policies.⁵⁴ The Texas PUC recognizes the value of ARMIS Report 43-07, noting that the report is a valuable repository for information “beneficial in formulating forward-looking infrastructure related policies.”⁵⁵

Similarly, commenters dismiss AT&T’s suggestion that outage reports may be sufficient.⁵⁶ Outage reports are “limited in scope” and not available to the public.⁵⁷ As noted by the Texas PUC, the outage reports simply report the duration of outages but provide no information about installation intervals or frequency of trouble report rates, for example.⁵⁸ Finally, service quality reports required as a result of the mergers are not required of all the current ARMIS-reporting companies, have a sunset date, and are not as accessible.⁵⁹ CWA similarly suggests that outage reports and the merger reports are “simply not a substitute for the ARMIS data.”⁶⁰

AT&T’s “level playing field” argument does not hold water.

As noted in initial comments, AT&T is correct that theoretically all telecommunications services providers should report the type of data collected in the

⁵³ / NASUCA, at 7. NASUCA also notes that Form 477 would also not allow states to examine calling patterns, which ARMIS 43-08 currently allows. *Id.*

⁵⁴ / Texas PUC, at 4. The Texas PUC does recommend removing requirements to report on “outdated” technologies such as electro-mechanical switches and to add reporting requirements with respect to VoIP-based switches and video services. *Id.*

⁵⁵ / *Id.*

⁵⁶ / AT&T Petition, at 12-13.

⁵⁷ / NASUCA, at 6.

⁵⁸ / Texas PUC, at 3.

⁵⁹ / NASUCA, at 5.

⁶⁰ / CWA, at 13.

ARMIS reports at issue.⁶¹ USTelecom suggests that reporting requirements are “inequitably applied” and Embarq bemoans the fact that only a small subset of ILECs report.⁶² Yet, the ILECs completely ignore the fact that 90% of the switched access lines in the country are still provided by the RBOCs alone.⁶³ As discussed above and in initial comments in depth, the fact remains that AT&T is a dominant carrier, despite some relative increases in competition.⁶⁴

Furthermore, the Commission should resist the temptation to simply lower requirements to the least common denominator akin to a “race to the bottom.” The absence of reporting requirements for other types of carriers does not justify a grant of forbearance. Rate Counsel concurs with NASUCA’s analysis:

It would probably be better for consumers, who would be much better informed, if all telecommunications providers were subject to service quality and reporting requirements. But it does not appear that the commission is inclined to such a result. That being the case, it remains vital that the dominant carrier still be required to make these reports.⁶⁵

Similarly, CWA agrees that all carriers should report and reminds the Commission that both NARUC and the Commission have found that consumers would be better off if they had access to service quality data for all carriers providing local exchange service in their area.⁶⁶

⁶¹ / Rate Counsel, at 26 stating: “Rate Counsel certainly supports AT&T’s position that ‘comprehensive industry-wide data’ should be collected from all carriers. However, AT&T oversimplifies the manner in which this can be achieved.”

⁶² / USTelecom, at 1. See, also, *Id.*, at 3. Embarq, at 2.

⁶³ / Rate Counsel, at 22.

⁶⁴ / See, e.g., Rate Counsel, at 10-18; NASUCA, at 2-3.

⁶⁵ / NASUCA, at 4.

⁶⁶ / CWA, at 13-14, citing In the Matter of 2000 Biennial Regulatory Review – Telecommunications Service Quality Reporting Requirements, Notice of Proposed Rulemaking, CC Docket No. 00-229, Jan. 12, 2001, 23.

III. CONCLUSION

For the foregoing reasons, the Commission should deny AT&T's petition for forbearance. Comments filed in response to AT&T's Petition demonstrate that AT&T has failed to make a showing that the forbearance criteria are satisfied. A grant of forbearance from ARMIS reporting requirements would be inconsistent with the public interest. The advent of price-cap regulation has not rendered reporting irrelevant and the telecommunications market is not sufficiently competitive to ensure high quality of service in the provision of basic local service from the major ILECs. Indeed, state commissions continue to wrestle with declining service quality and rely upon ARMIS reporting in many state proceedings. Rate Counsel supports efforts to increase the number and type of carrier that provides public data to the Commission, but AT&T's proposed alternatives to ARMIS do not meet the needs of consumers, consumer advocates, and state and federal regulators for the various reasons outlined in initial comments. Finally, AT&T and supporting ILECs have failed to demonstrate the burden of filing ARMIS reports outweighs the benefit of standardized, public, nationwide data about ILEC operations and, in fact, have failed to demonstrate that ARMIS reporting constitutes a burden at all.

Respectfully submitted,

RONALD K. CHEN
PUBLIC ADVOCATE

Kimberly K. Holmes, Esq.
Acting Director

By: *Christopher J. White*
Christopher J. White, Esq.
Deputy Public Advocate

September 19, 2007